

225.871-5

(4) Any of the financial management responsibilities administered by the Secretary of the Treasury.

(c) Forward any request for waiver under a cooperative project to the Deputy Secretary of Defense, through the Director of Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics). The waiver request shall include a draft Determination and Findings for signature by the Deputy Secretary of Defense establishing that the waiver is necessary to significantly further NATO standardization, rationalization, and interoperability.

(d) Obtain the approval of the Deputy Secretary of Defense before committing to make a waiver in an agreement or a contract.

225.871-5 Directed Subcontracting.

(a) The Director of Defense Procurement and Acquisition Policy may authorize the direct placement of subcontracts with particular subcontractors. Directed subcontracting is not authorized unless specifically addressed in the cooperative project agreement.

(b) In some instances, it may not be feasible to name specific subcontractors at the time the agreement is concluded. However, the agreement shall clearly state the general provisions for work sharing at the prime and subcontract level. For additional information on cooperative project agreements, see PGI 225.871-5.

[68 FR 15621, Mar. 31, 2003, as amended at 70 FR 73155, Dec. 9, 2005]

225.871-6 Disposal of property.

Dispose of property that is jointly acquired by the members of a cooperative project under the procedures established in the agreement or in a manner consistent with the terms of the agreement, without regard to any laws of the United States applicable to the disposal of property owned by the United States.

[70 FR 73155, Dec. 9, 2005]

225.871-7 Congressional notification.

(a) Congressional notification is required when DoD makes a determination to award a contract or sub-

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contract to a particular entity, if the determination was not part of the certification made under 22 U.S.C. 2767(f) before finalizing the cooperative agreement.

(1) Departments and agencies shall provide a proposed Congressional notice to the Director of Defense Procurement and Acquisition Policy in sufficient time to forward to Congress before the time of contract award.

(2) The proposed notice shall include the reason it is necessary to use the authority to designate a particular contractor or subcontractor.

(b) Congressional notification is also required each time a statutory waiver under 225.871-4 is incorporated in a contract or a contract modification, if such information was not provided in the certification to Congress before finalizing the cooperative agreement.

225.872 Contracting with qualifying country sources.

225.872-1 General.

(a) As a result of memoranda of understanding and other international agreements, DoD has determined it inconsistent with the public interest to apply restrictions of the Buy American Act or the Balance of Payments Program to the acquisition of qualifying country end products from the following qualifying countries:

Australia
Belgium
Canada
Denmark
Egypt
Federal Republic of Germany
France
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland

(b) Individual acquisitions of qualifying country end products from the following qualifying countries may, on a purchase-by-purchase basis (see

225.872-4), be exempted from application of the Buy American Act and the Balance of Payments Program as inconsistent with the public interest:

Austria
Finland

(c) The determination in paragraph (a) of this subsection does not limit the authority of the Secretary concerned to restrict acquisitions to domestic sources or reject an otherwise acceptable offer from a qualifying country source when considered necessary for national defense reasons.

[68 FR 15621, Mar. 31, 2003, as amended at 69 FR 8116, Feb. 23, 2004]

225.872-2 Applicability.

(a) This section applies to all acquisitions of supplies except those restricted by—

(1) U.S. National Disclosure Policy, DoDD 5230.11, Disclosure of Classified Military Information to Foreign Governments and International Organizations;

(2) U.S. defense mobilization base requirements purchased under the authority of FAR 6.302-3(a)(2)(i), except for quantities in excess of that required to maintain the defense mobilization base. This restriction does not apply to Canadian planned producers.

(i) Review individual solicitations to determine whether this restriction applies.

(ii) Information concerning restricted items may be obtained from the Deputy Under Secretary of Defense (Industrial Affairs);

(3) Other U.S. laws or regulations (*e.g.*, the annual DoD appropriations act); and

(4) U.S. industrial security requirements.

(b) This section does not apply to construction contracts.

225.872-3 Solicitation procedures.

(a) Include qualifying country sources on solicitation mailing lists upon their request (see FAR 14.205).

(b) Except for items developed under the U.S./Canadian Development Sharing Program, use the criteria for soliciting and awarding contracts to small business concerns under FAR Part 19 without regard to whether there are

potential qualifying country sources for the end product. Do not consider an offer of a qualifying country end product if the solicitation is identified for the exclusive participation of small business concerns.

(c) Send solicitations directly to qualifying country sources. Solicit Canadian sources through the Canadian Commercial Corporation in accordance with 225.870.

(d) Use international air mail if solicitation destinations are outside the United States and security classification permits such use.

(e) If unusual technical or security requirements preclude the acquisition of otherwise acceptable defense equipment from qualifying country sources, review the need for such requirements. Do not impose unusual technical or security requirements solely for the purpose of precluding the acquisition of defense equipment from qualifying countries.

(f) Do not automatically exclude qualifying country sources from submitting offers because their supplies have not been tested and evaluated by the department or agency.

(1) Consider the adequacy of qualifying country service testing on a case-by-case basis. Departments or agencies that must limit solicitations to sources whose items have been tested and evaluated by the department or agency shall consider supplies from qualifying country sources that have been tested and accepted by the qualifying country for service use.

(2) The department or agency may perform a confirmatory test, if necessary.

(3) Apply U.S. test and evaluation standards, policies, and procedures when the department or agency decides that confirmatory tests of qualifying country end products are necessary.

(4) If it appears that these provisions might adversely delay service programs, obtain the concurrence of the Under Secretary of Defense (Acquisition, Technology, and Logistics), before excluding the qualifying country source from consideration.

(g) Permit industry representatives from a qualifying country to attend symposia, program briefings, prebid conferences (see FAR 14.207 and